

Honorable Franklin D. Burgess

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

Thermion, Inc.,

Plaintiff,

v.

Thermion Metalizing Systems, Ltd.,

Defendant.

No. 05CV5409

STIPULATED MOTION FOR
LEAVE TO SUPPLEMENT AND
AMEND THE COMPLAINT AND
ORDER

Pursuant to CR 7(d)(1) and CR 10(g), Plaintiff Thermion Inc. ("Thermion") and Defendant Thermion Metalizing Systems, Ltd. ("TMS"), by and through their respective attorneys, hereby stipulate as follows:

I. STIPULATIONS

WHEREAS Thermion filed its Complaint on June 17, 2005;

WHEREAS TMS requested and Thermion agreed to a stipulated extension of time in which to answer the Complaint on July 1, 2005, which was granted by the Court on July 12, 2005;

WHEREAS TMS filed its Answer and Counterclaims on July 15, 2005;

WHEREAS Thermion filed its Reply to TMS's Counterclaims on July 25, 2005;

WHEREAS Thermion filed a Motion to Supplement and Amend its Complaint on November 10, 2005; and

STIPULATED MOTION FOR LEAVE TO
SUPPLEMENT AND AMEND THE COMPLAINT
AND [PROPOSED] ORDER (05CV5409) - 1

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CHRISTENSEN
O'CONNOR
JOHNSON
KINDNESS^{LLC}

LAW OFFICES
1420 Fifth Avenue, Suite 2800
Seattle, WA 98101-2347
TELEPHONE: 206.682.8100

1 WHEREAS on November 10, 2005, Thermion's First Amended Complaint was also
2 filed; therefore,

3 The parties hereby agree to the withdrawal of Thermion's Motion to Supplement and
4 Amend its Complaint as well as Thermion's Amended Complaint, and to permit the filing of
5 Thermion's Second Amended Complaint. A true and correct copy is attached hereto.
6 Pursuant to Federal Rule of Procedure 15(a), the parties stipulate that Thermion's Second
7 Amended Complaint supersedes any Complaint previously filed in this case and that service
8 and receipt of Thermion's Second Amended Complaint is hereby acknowledged by TMS.

9 The parties further agree to an extension of time in which Defendant TMS shall have
10 until December 7, 2005 to answer the Second Amended Complaint.

11 The parties further agree that the stipulation is not and should not be construed as any
12 waiver or admission with respect to the parties' respective claims or defenses, all of which are
13 reserved.

14 **II. ORDER**

15 The Court, having considered the stipulation entered into by the parties, hereby orders
16 that:

- 17 1. Leave to file the Second Amended Complaint is GRANTED; and
18 2. Defendant's answer to the Second Amended Complaint shall be due on
19 December 7, 2005.

20 IT IS SO ORDERED.

21 Dated this 28th day of November 2005.

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24 FRANKLIN D. BURGESS
25 UNITED STATES DISTRICT JUDGE
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1 Presented by:

2 CHRISTENSEN O'CONNOR
3 JOHNSON KINDNESS^{PLLC}
4

5 s/ Claire F. Hawkins

6 F. Ross Boundy, WSBA No. 408

7 Claire F. Hawkins, WSBA No.: 31,690

8 Christensen O'Connor Johnson Kindness^{PLLC}

9 1420 Fifth Avenue, Suite 2800

10 Seattle, WA 98101-2347

11 Telephone: 206.682.8100

12 Fax: 206.224.0779

13 E-mail: ross@cojk.com; claire@cojk.com; courtdocs@efiling.com

14 Attorneys for Plaintiff

15 LANE POWELL PC
16
17
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19
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21
22
23
24
25
26
27

s/ Paul D. Swanson

Paul D. Swanson, WSBA No. 13,656

Stanton P. Beck, WSBA No. 16,212

Stephanie Simmons, WSBA No. 30,154

Lane Powell PC

1420 Fifth Avenue, Suite 4100

Seattle, WA 98101

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Stanton Phillip Beck
becks@lanepowell.com, bakerh@lanepowell.com

Stephanie J. Simmons
simmonss@lanepowell.com

Paul Douglas Swanson
Swansonp@lanepowell.com, potter@lanepowell.com, baerh@lanepowell.com, docketing-sea@lanepowell.com

s/ Claire F. Hawkins
F. Ross Boundy, WSBA No. 408
Claire F. Hawkins, WSBA No.: 31,690
Christensen O'Connor Johnson Kindness PLLC
1420 Fifth Avenue, Suite 2800
Seattle, WA 98101-2347
Telephone: 206.682.8100
Fax: 206.224.0779
E-mail: ross@cojk.com; claire@cojk.com;
courtdocs@efiling.com
Attorneys for Plaintiff